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Chairman  
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*House Meets at 10:00 a.m. for Legislative Business*

*Anticipated Floor Action:*

**H.R. 775—Y2K Readiness and Responsibility Act  
Motion to Instruct Conferees on H.R. 1141 (FY 1999 Supplemental  
Appropriations Act)**



**H.R. 775—Y2K Readiness and Responsibility Act**

**Floor Situation:** The House will consider H.R. 775 as its first order of business today. Yesterday, the Rules Committee granted a structured rule that provides one hour of general debate, equally divided between the chairman and ranking member of the Judiciary Committee. The rule self-executes a manager's amendment to make technical corrections to the bill. It also makes in order six amendments, debatable in the order listed and for the amount of time specified below. In addition, the rule allows the chairman of the Committee of the Whole to postpone votes during consideration and reduce the voting time on a postponed vote to five minutes, so long as it follows a regular 15-minute vote. Finally, the rule provides one motion to recommit, with or without instructions.

**Summary:** H.R. 775 seeks to curb the costs of litigation associated with the year 2000 (Y2K) computer problem, which many experts predict may cause scores of computer systems to fail at midnight, January 1, 2000. Major provisions in the bill include:

- \* establishing a \$250,000 limit (or three times actual damages, whichever is greater) on punitive damages awarded in Y2K lawsuits, in addition to 100 percent recovery of any losses incurred;
- \* mandating a 90-day waiting period before potential plaintiffs may file a Y2K claim to allow businesses to correct the problem; and

- \* creating a “loser-pays” mechanism stipulating that if either party to a Y2K lawsuit rejects a settlement offer made up to 10 days before trial, and goes on to win a smaller award than was offered for settlement, the losing party must pay the winning party’s attorneys’ fees and court costs from the date the last offer was made.

The Y2K glitch is born of decades-old computer programming that recognizes calendar years by their last two digits—a memory space-saving technique whose consequences were unforeseen. The extent of any damage this problem may cause is, for the most part, unknown. However, over 80 Y2K lawsuits have already been filed; 790 demand letters for new Y2K suits (sent prior to filing) have been issued as well. Against this backdrop, the bill is intended to steer resources into *fixing* the Y2K problem rather than allow litigants to exploit it. The limits on awards set forth in this bill do not apply to personal injury lawsuits; similarly, there are no caps on attorneys’ fees.

Supporters of the bill argue that it is a balanced approach to prevent a slew of frivolous lawsuits from being visited upon businesses who made a good faith effort to fix their Y2K problems, while at the same time holding truly negligent businesses responsible for not correcting theirs. Supporters also contend that the resources that might be used to fend off legal actions should be used to actually fix the Y2K computer problem, which the bill makes possible by establishing a 90-day waiting period before lawsuits can be filed and a \$250,000 cap on punitive damages awarded in a Y2K suit.

Opponents counter that the measure will achieve the converse of its intent: that is, it will lull businesses into complacency and furnish them an excuse to *not* correct their Y2K computer problems. The specter of liability, opponents argue, is a basic motivation for businesses to do the right thing and correct their Y2K problems. Finally, opponents argue that the measure will set a precedent for further softening product liability laws.

The bill was introduced by Mr. Davis (VA) *et al.* and was reported by the Judiciary Committee by a vote of 15-14 on May 4, 1999.

**Views:** The Republican leadership supports passage of the bill. President Clinton strongly opposes the bill in its current form and has threatened to veto it.

**Amendments:** As stated above, the rule makes in order six amendments to H.R. 775, in the order specified below. Unless otherwise noted, each amendment is debatable for 20 minutes, equally divided between a proponent and opponent.

**Mr. Davis (VA)** will offer an amendment to define what types of damages are covered under the bill in order to eliminate potential difficulties state courts may encounter when interpreting the measure. Specifically, the amendment defines damages as “punitive, compensatory, and restitutionary relief.” The amendment also changes the effective date from February 22, 1999, to January 1, 1999. **Staff Contact: Mike Hettinger, x5-1492**

**Mr. Moran (VA)** will offer an amendment to stipulate that all claims, counterclaims, cross-claims, and third-party claims that arise out of an underlying action for personal injury are exempt from the bill. **Staff Contact: Pete Lawson, x5-4376**

**Ms. Jackson-Lee** will offer an amendment to clarify that the notice a defendant must give to the plaintiff 30 days after the claim is filed, in which the defendant describes what actions will be taken to remedy the Y2K problem, may be drafted using layman's terms and without specialized and technical details. **Staff Contact: Diego Alvarez, x5-3816**

**Mr. Scott** will offer an amendment to remove the bill's \$250,000 cap on punitive damages. **Staff Contact: Denise Forte, x5-8351**

**Mr. Nadler** will offer an amendment to eliminate provisions in the bill that preempt state jurisdiction over class action lawsuits and impose other federal standards on such lawsuits. **Staff Contact: John Doty, x5-5635**

**Ms. Lofgren, Mr. Conyers, and Mr. Boucher** will offer an amendment in the nature of a substitute, debatable for 60 minutes, to require plaintiffs to meet specific pleading procedures and mitigate their damages. In addition, the substitute limits class action claims to only those cases involving material defects. The substitute amendment also (1) specifies that defendants' contracts are fully enforceable and that defendants may raise the defense of impossibility or commercial impracticability; (2) stipulates that in tort and other non-contractual cases, liability must be reasonably apportioned among co-defendants; and (3) limits plaintiffs from asserting claims for economic damages that are not covered by contract. Finally, the substitute does not include provisions in the bill that create a "reasonable efforts" defense, place various limitations and dollar caps on collecting punitive damages, cap the liability of officers and directors of companies to \$100,000, federalize class actions, and mandate a "loser pays" mechanism. Supporters of the substitute charge that H.R. 775 is too broad and constitutes radical, unjustifiable reform of tort law. Opponents of the substitute counter that it weakens the bill to such an extent as to make it ineffective. **Staff Contact: John Flannery, x5-3072 (Lofgren)**

**Additional Information:** See *Legislative Digest*, Vol. XXVIII, #13, May 7, 1999.



## **Motion to Instruct Conferees on H.R. 1141 (FY 1999 Supplemental Appropriations Act)**

**Floor Situation:** Mr. Deutsch is expected to offer a motion to instruct conferees on H.R. 1141 sometime today. The motion is debatable for one hour.

**Summary:** The nonbinding motion instructs conferees on H.R. 1141 to insist on the House-passed level of \$621 million for a disaster recovery fund for Central America and Caribbean nations. The House passed H.R. 1141 by a vote of 220-211 on March 24, 1999; the Senate passed its version by unanimous consent on the same day.

**Additional Information:** For details on H.R. 1141 as passed by the House, see *Legislative Digest*, Vol. XXVIII, #8, March 19, 1999.

